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4 Attorneys for Defendant

5 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
6 (HONORABLE ROBERT H. WHALEY)

7 UNITED STATES OF AMERICA,)
)
8 Plaintiff,) CR-09-0089-RHW
)
9 Vs.) MEMORANDUM IN SUPPORT OF
) MOTION TO CONTINUE
10 TIMOTHY SHELLEY,) SENTENCING HEARING
)
11 Defendant.)

12 TO: JAMES McDEVITT, UNITED STATES ATTORNEY
STEPHANIE J. LISTER, ASSISTANT UNITED STATES ATTORNEY
13

14 TIMOTHY SHELLEY, through counsel, Amy H. Rubin for the
15 Federal Defenders of Eastern Washington and Idaho, respectfully moves
16 the Court to continue the sentencing hearing currently scheduled for
17 October 7, 2010.

18 CASE BACKGROUND

19 On August 20, 2009, Mr. Shelly appeared before Magistrate
20 Imbrogno and was advised of the allegations contained in his Indictment.
21 These allegations included violations of 18 U.S.C. § 2422(b), 18 U.S.C. §
22 2251(a), 18 U.S.C. § 2423(b), 18 U.S.C. §§ 2428 and 2253. On March 24,
23 2010, Mr. Shelly entered a plea of guilty pursuant to a written plea
24

1 agreement. Sentencing was initially scheduled for June 30, 2010, but
2 was subsequently continued, and is presently scheduled for, October 7,
3 2010 at 10:30AM.

4 REQUEST FOR CONTINUANCE

5 Counsel respectfully asks the Court to move the date of sentencing
6 from October 7 to late October or early November due to Mr. Shelly's
7 health. For the past several weeks Mr. Shelly, a diabetic, has been
8 experiencing medical issues with his toe. During the week of September
9 20th, Mr. Shelly was taken to Deaconess Medical Center for an
10 evaluation of his condition by a physician. He was prescribed a thirty-
11 day treatment of the antibiotic Ciprofloxacin to resolve this health
12 concern. One side-effect of the prescribed medication, Ciprofloxacin, is
13 dizziness; as of the date this Memorandum was written, day seven of his
14 treatment, Mr. Shelly is experiencing the side-effect of dizziness, making
15 it difficult for him to read and focus.

16 Mr. Shelly is expecting a follow-up appointment with physicians to
17 review an x-ray taken of his toe this week or early next week, based
18 upon physician availability at Deaconess Medical Center. Depending on
19 the results of that review, Mr. Shelly's toe may need to be amputated.
20 The physician may yet determine such a drastic measure is not
21 necessary; however, Mr. Shelly is concerned about the level of his mental
22 alacrity, as a result of the Ciprofloxacin, at the time of his sentencing
23 hearing. He is concerned that he will not be able to fully understand his
24

1 sentencing proceedings while he is on this medication.

2 Assistant United States Attorney Stephanie Lister was contacted
3 regarding the continuance request, but was not available. Ms. Lister is
4 out of the district so Counsel has sent an email to both Ms. Lister and
5 her assistant regarding the request. Mr. Shelly has no objections to
6 continuing the sentencing. Mr. Shelly faces a significant sentence, so a
7 delay will not negatively affect the amount of time he is detained.

8 FOR THE FOREGOING REASONS, Mr. Shelly respectfully
9 requests that this Court grant his motion to continue the sentencing
10 hearing until he completes his Ciprofloxacin treatment in October and
11 the side-effects of that treatment subside. Neither party requests a
12 hearing on the matter.

13
14 Dated: September 30, 2010

15
16 Respectfully Submitted,

17 S/ Amy H. Rubin
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21 Eastern Washington and Idaho
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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: STEPHANIE J. LISTER, Assistant United States Attorney.

S/ Amy H. Rubin
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